

10-60111.o1

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
Miami Division

Case Number: 10-60111-CIV-ALTONAGA-BROWN

BARBARA FAWCETT, a/k/a
BARBARA LETTERESE,

Plaintiff,

vs.

INTERNAL REVENUE SERVICE,

Defendant.

ORDER DENYING MOTION FOR RECONSIDERATION

This matter is before this Court on plaintiff's Motion for Reconsideration...(D.E. 26). The Court has considered the motion, the Opposing Memorandum (D.E. 25), the reply and considered all pertinent materials in the file.

Initially, the Court finds no good cause why plaintiff did not comply with an Order of the Court and did not file a timely response to the motion for protective order. Plaintiff's "excuse" is that the shortening of time in D.E. 14 to respond to discovery motions is to "prevent delay to the pre-trial schedule" (page 3 of the motion)...and since the trial is not set until 2011, this provision should not apply. Not surprisingly, no law has been cited to support this "logic". Secondly, the motion violates Local Rule 7.1.A.1, in that no law has been cited for the relief (reconsideration) sought.

Finally, defendant is correct in that the discovery sought by documents requests appear to be the same documents that are the subject of the litigation itself. Thus these requests are either redundant or an attempt at an "end run" around the lawsuit plaintiff, herself, filed, which is not permitted. See e.g. Pollard v. F.B.I., 705 F. 2d 1151, 1154 (9th Cir. 1983).

If plaintiff wishes to file a motion for summary judgement or judgment on the pleadings,

plaintiff is free to do so. What plaintiff is not free to do is to send document requests to circumvent the lawsuit she, herself, has filed.

Therefore, and the Court being otherwise fully advised in the premises it is hereby **ORDERED AND ADJUDGED** that said motion be and the same is hereby **DENIED**.

DONE AND ORDERED in Chambers at Miami, Florida, this 6th day of May, 2010.



STEPHEN T. BROWN
CHIEF UNITED STATES MAGISTRATE JUDGE

cc: Honorable Cecilia M. Altonaga
Counsel of record